

## HUMAN SERVICES BOARD

# INTRODUCTION

## FINDINGS OF FACT

2. The petitioner received \$237 in Food Stamps for the months March and April 2002, \$175 in May, \$224 in June, \$248 in July, and \$237 for August and September 2002.

3. As of the day of the final hearing in this matter, February 20, 2003, the petitioner did not dispute that the Department had correctly determined her household size during those months and her daughter's income each month.

4. Based on the household's actual income and reported expenses during the period the Department has now correctly determined that the petitioner should have received \$158 in Food Stamps for the month of March 2002, \$133 in April, \$167 in May, \$64 in June, \$10 in July, \$53 in August, and \$72 in September 2002. Subtracting these amounts from the amounts the petitioner erroneously received (see paragraph 2, supra) the Department correctly determined that the petitioner's total overpayment for the period is \$1,018.

5. The Department does not allege that the petitioner did anything wrong, but maintains that regardless of who was at fault it must assess an overpayment of \$1,018.

ORDER

The decision of the Department is affirmed.

REASONS

Under the federal Food Stamp regulations as adopted by the State of Vermont, the Department of PATH is required to establish a claim against any household which has received

Food Stamp benefits to which it was not entitled regardless of whether the agency or the household caused the overpayment.

F.S.M. 273.18(a). The Department is required to recalculate Food Stamps based on the correct information regarding the household's actual income and expenses and to establish a claim for any amounts that were overpaid during the previous twelve months. F.S.M. § 273.18(c).

The regulations further require the Department to recoup such overpayments when the household continues to participate in the program. In such cases, the Department is required to collect outstanding amounts by reducing the household's monthly food stamp allotments. F.S.M. 273.18(f). The amount to be collected by this offset is the greater of \$10.00 or ten percent of the total monthly food stamp allotment—again, whether the overpayment was the result of an error by either the household or the agency. F.S.M. §§ 273.18(f)(1)(iii).

There is no indication in this matter that the Department has not followed its regulations regarding the calculation and treatment of the petitioner's overpayment, even though recoupment of that overpayment will undoubtedly be a hardship on the petitioner in the coming months. Therefore, the Board

is bound to affirm the Department's decision. 3 V.S.A. §  
3091(d), Fair Hearing Rule No. 17.

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